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WHEN AN ELECTION IS NEITHER FREE NOR FAIR

Nissan and the 2017 Union Election in Mississippi

Nissan Motor Company is a Japanese auto manufacturer and the number one producer of automobiles in the world.¹ It had \$6.57 billion in operating profits in 2016. In 1999 Nissan entered an alliance with French-owned Renault S.A., with Renault buying a 44% stake in the company. The French government is the largest shareholder of Renault, holding 19.7% of its shares.²

Nissan has 45 production facilities in the Americas, Europe, Asia, Australia and Africa. All of Nissan's production workers around the world enjoy union representation except for workers at its three plants in the United States South (Smyrna, TN; Decherd, TN; Canton, MS).

The Canton, Mississippi Assembly Plant

Nissan's Canton, Mississippi assembly plant opened in May, 2003, aided by \$1.3 billion in subsidies from Mississippi's state and local taxpayers over the term of the subsidy program.³ By 2016 the Canton plant was producing over 360,000 vehicles with an estimated production and maintenance workforce, of 5,300 - approximately 80% of whom are African-American. Of these, 3,700 are direct Nissan employees and an estimated 1,600 workers are supplied by the Kelly and Minact temporary employment agencies.⁴ These temporary employees receive lower pay and benefits than Nissan employees but do the same work.

A year after production began at the Canton plant, workers contacted the United Auto Workers (UAW) for help in establishing collective bargaining representation. While pay and benefit levels were competitive, many workers felt mistreated by supervisors. As these employees talked to more of their co-workers, a 12-year effort was begun to gain a voice on the job through collective bargaining

with Nissan.

The 12-Year UAW Organizing Campaign

There were two major issues that fueled the organizing effort. First was the perception that Nissan had little regard for the physical welfare of workers: excessive line speeds, long work hours, six-day work weeks, potentially dangerous working conditions. Injured workers were sometimes placed back on the same jobs after their medical treatment.

Workers were concerned that their bodies were viewed as expendable.

Second, Nissan made a decision in 2011 to depress overall compensation by moving to a dual, lower wage and benefit system. Approximately 1,500 temporary employees were converted from temporary employment to Nissan's payroll, but at a lower wage level and with inferior benefits compared to "legacy" Nissan employees. These so-called "pathways" employees have to wait much longer to reach top pay. In addition, legacy

Nissan employees suffered an erosion in their benefits and purchasing power as regular yearly pay increases ended and their pension plan was frozen. Their health insurance was replaced with a plan with higher premiums and greater out-of-pocket costs.

As employees began talking to their co-workers, it became clear that something had to be done about anti-union supervisors and managers, who were using fear and intimidation to discourage support for the union. Nevertheless, Renault-Nissan CEO Carlos Ghosn told Reuters in 2012

*"We will naturally remain very neutral on this [union activity in Mississippi]."*⁵

As the campaign grew, community support grew.

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1 <https://www.forbes.com/sites/bertelschmitt/2017/07/28/nissan-renault-officially-worlds-largest-automaker-at-half-time/#65ed68377030> and <https://www.ft.com/content/fe682336-7365-11e7-aca6-c6bd07df1a3c>

2 <http://www.4-traders.com/RENAULT-4688/company/>

3 http://www.goodjobsfirst.org/sites/default/files/docs/pdf/nissan_report.pdf

4 Nissan does not publicly disclose the number of temporary workers utilized in its Canton plant.

5 <http://www.reuters.com/article/us-nissan-uaw-idUSBRE86U19G20120731/>

Several local clergy and civil rights groups came together in 2013 to form the Mississippi Alliance for Fairness at Nissan (MAFFAN), calling on Nissan to allow workers to organize their union without company opposition. Students from Jackson State University, Tougaloo College, University of Mississippi and others showed their support. Nissan workers in Brazil and Renault workers in France rallied to the side of workers in Canton and the attention they focused on the situation led Ghosn to again declare Nissan's neutrality. In February, 2016 he appeared before the Economic Committee of the French National Assembly and was grilled about the company's anti-union conduct in Canton. Ghosn denied allegations that Nissan opposed employee representation in its Mississippi assembly plant and stated

*"There are unions in all the factories where Nissan is located. Nissan has absolutely no tradition of failure to knowingly cooperate with unions, nor does it consider this a bad thing."*⁶

A year and a half later, Nissan's "vote no" campaign in Canton would severely contradict Ghosn's assertion.

The "March on Mississippi" and Filing for Election

In early 2017, as union support continued to build, organizers made the decision to hold a public rally to bring Nissan workers and community supporters together. On March 4, 5,000 people rallied at a local ball field and marched to the gates of the Canton plant. The leaders of the march delivered a letter calling on Nissan to cease its intimidation and threats of union supporters, and to be neutral and allow a free and fair union election. Afterward, one headline in the local press declared "Nissan Officials Are Not Opposed to Unions."⁷

The March on Mississippi provided momentum to the organizing effort with workers joining the organizing committee and signing union cards. On July 10, a group of Nissan employees traveled to the New Orleans office of the National Labor Relations

Board (NLRB) carrying hundreds of cards signed by their co-workers, asking for a union election. Union supporters were buoyed by the backing of religious and community leaders, and by Nissan's public declarations of neutrality. The union's petition asked for a vote by Nissan's production and maintenance

technicians, but excluded the temporary workers employed by Kelly and Minact. In an earlier NLRB proceeding Kelly had denied being a joint employer with Nissan, and so a proposal to include temporary workers in the vote would almost certainly have led to a protracted legal fight. Additionally, many of those workers were fearful that public support of the UAW would doom their chances of permanent employment with Nissan.

The next day, workers and community leaders held a press conference at the union office. The event was bursting with

optimism as workers praised Nissan for being in Mississippi and called on the company to allow a free and fair election.

Nissan Unleashes a Furious Anti-Union Campaign

As soon as the election petition was filed, Nissan dropped all pretense of neutrality. Nissan spokeswoman Parul Bajaj made the company's opposition clear.

*"While it is ultimately up to our employees who will represent them, we do not believe that UAW representation is in the best interest of Nissan Canton and its workers."*⁸

Nissan's position was echoed by Mississippi Governor Phil Bryant who stated his opposition to collective bargaining for Canton employees.⁹

The company's reaction was most harsh inside the plant, where Nissan supervisors and managers control every aspect of workers' day-to-day working conditions: job assignments, line speed, transfer requests, requests for time off, etc. Only two days after filing for the union vote, all employees were forced to watch an anti-union video featuring VP

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6 Translation of an extract from Carlos Ghosn's hearing concerning the Nissan plant are reproduced in the following video: <https://www.youtube.com/watch?v=yUI4KZ0ispl>

7 <http://themiississippilink.com/wp-content/uploads/2012/01/March-9-2017.pdf>

8 <http://www.autonews.com/article/20170711/OEM01/170719928>

9 <http://onlinemadison.com/Content/Default/Rotator/Article/Union-election-Aug-3-4/-3/593/39899>

of Manufacturing Steve Marsh. Although Marsh had worked cooperatively with the union at his previous posting at Nissan's Sunderland, UK plant, he adopted a dramatically different tone with workers in the State of Mississippi.

*"From our past experiences with the UAW, we know the union will make promises it can't keep to get you to vote for the UAW. But when you see the UAW's empty promises for what they really are, and get the complete facts, the choice is clear. We believe it is in the best interest of our employees, our customers, and our community if the UAW is not here in Canton. We hope you agree with us."*¹⁰

Nissan also mailed a letter signed by Marsh to workers' homes with a similar message:

*"I sincerely believe that when all the facts are explained and the whole story is told, the vast majority of Nissan-Canton employees will agree with me that we do not need the UAW and that keeping the UAW out of our plant is in the best interests of our employees, their families, our business and our community."*¹¹

Supervisors, human resources staff and managers sprang into action, pulling workers off the assembly line for one-on-one meetings about the union vote. Workers reported supervisor comments such as "you don't need the union, you have HR (human resources). You don't need a third party." These meetings seemed to especially target new hires, so-called "pathways" workers and those who were undecided. There appeared to be a constant succession of managers' meetings, presumably to school supervisors on talking points for one-on-one meetings.

In addition, Nissan initiated mandatory "roundtable" meetings with groups of workers where anti-union

messages were delivered. Pro-union employees were segregated into separate meetings, while anti-union workers were comingled with those who were undecided to try to influence their position. The constant theme of these meetings was that the plant was at risk of closing if the UAW was voted in. When supervisors were questioned why all other Nissan plants around the world have union representation, they falsely claimed that these unions are so-called "company unions" controlled by Nissan and/or the host government.

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All of this anti-union activity inside the Canton plant was during working hours, and not one time during the entire 4-week period leading up to the election were union supporters given equal time. When one supporter demanded equal time he was told "talk to HR." HR refused. If, as Nissan claimed, they only wanted to give workers "facts", allowing equal time should not have been a concern.

The most constant messaging inside the plant and delivered outside the plant through press comments and radio and TV advertising, was that the plant could close if workers voted yes.¹² This threat was dominant, repetitive and oppressive. It was corrosive to the hopes of workers who had fought so hard for dignity and respect. For Nissan it was an effective, albeit unprincipled, tactic. As one voter said after the loss, "you feel threatened, and it's a real fear."¹³

The week before voting was to begin, Nissan supervisors and managers began wearing red anti-union t-shirts. On the front was the slogan "Our Team, Our Future" and on the back in large type was "Vote No" with a checked box, meant to show workers how to cast their ballot.

In the final weeks of the election period, workers discovered that Nissan was maintaining an employee data collection and rating system that rated workers

¹⁰ Transcription of video narrated by Nissan's Steve Marsh, July 12, 2017. See also <https://www.yahoo.com/news/uaw-nissan-pressing-high-stakes-campaign-worker-votes-144118865.html>

¹¹ Letter dated July 12, 2017 from Steve Marsh, Nissan Canton Vice President of Manufacturing

¹² <https://www.nytimes.com/2017/08/02/business/economy/nissan-united-auto-workers-mississippi.html?mcubz=1>

¹³ <https://www.theguardian.com/us-news/2017/aug/05/mississippi-nissan-workers-vote-against-union>

according to their perceived support for the UAW. Based on their surveillance of workers' union activity, Nissan managers assigned a negative rating to those they perceived as supportive of having the UAW as their collective bargaining representative, and assigned a positive rating to workers who were opposed.

Commissioner Paulo Vannuchi of the Inter-American Commission on Human Rights (IACHR) visited Mississippi on July 28 and 29 to investigate the conduct of Nissan. The IACHR is operated by the Organization of American States (OAS) and is part of the inter-American system for promotion and protection of human rights.¹⁴ In his statement he reported

"I have seen videos and slide shows that are shown in the Canton facility with disparaging information about the UAW and unions. I have seen numerous posters flyers and other printed materials that are distributed and/or posted in the facility indicating that workers should vote no. Some of these contain implied threats. I have been informed that there is no similar opportunity for pro-union workers to present their messages within the facility. When workers have asked for equal time, they have been denied."

*"I call on Nissan and on its Alliance Partner, Renault, to ensure conditions at Canton that make a fair election possible. In a U.S. state like Mississippi, with a central place in the long struggle for voting rights, Nissan and Renault have an obligation to have management at Canton act in a way that honors the heroic struggle of Mississippi's citizens for such rights. That has not happened at Canton. Now, Nissan and Renault must reject the actions of local management and demand that Nissan's U.S. managers act in accord with established international standards of behavior."*¹⁵

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Nissan's anti-union campaign was not confined to the four walls of the Canton plant however. The company utilized TV and radio advertising, the internet and roadside billboards to inundate workers (and the community) with their "Vote No" message. Thousands of "Vote No" yard signs were distributed in the Canton area and surrounding communities and were posted by many local businesses. As the first day of voting on August 3 approached, there was saturation TV advertising in the Jackson television market. For example, in the five day period from July 31 to August 4, Nissan bought 108 television spots on the Jackson ABC affiliate WAPT alone. And Governor Bryant used his bully pulpit once again during an appearance at the Neshoba County Fair, telling Nissan employees they should reject union representation.¹⁶

The demonization of union supporters and of the UAW infected the community as well. Nissan's threats that the plant would close if the union won unleashed ugly sentiments among some elements of the Canton community. On a radio talk show hosted by Kim Wade on WYAB-FM, one caller, obviously speaking to Nissan's majority African-American workforce, stated:

"All they (unions) have done is force companies to flee the United States and if they get up there at Nissan they will force Nissan out of Mississippi. You Nissan people better listen, because you were out there hoeing corn and pickin' cotton and plowing fields or diggin' ditches before, and you're going to go right back to it, because the union is not going to take care of you."

The one-on-one meetings between workers and managers, the "roundtable" meetings, the anti-union leaflets, and "Vote No" t-shirts continued throughout the entire pre-election period. Anti-union videos played on a continuous loop in employee break areas. Nissan's campaign of threats, fear and intimidation culminated in one final large captive audience meeting on August 1st – two days

¹⁴ https://en.wikipedia.org/wiki/Inter-American_Commission_on_Human_Rights#Position_on_debatable_matters

¹⁵ <https://dobetternissan.org/statement-from-paulo-vannuchi-of-the-inter-american-commission-on-human-rights/>

¹⁶ <https://www.usnews.com/news/best-states/mississippi/articles/2017-07-27/governor-house-speaker-stumping-at-neshoba-county-fair>

before voting began. Workers were bussed to an air-conditioned tent from all corners of the 1,000 acre plant to hear a succession of speeches from Nissan brass. After weeks of sharp and threatening rhetoric, some of the bosses moderated their tone slightly, suggesting they would change in the future. VP Steve Marsh said

*"And I want to tell you again, I've heard you. Loud and clear. Taking care of business means I have to listen and support you more. I don't want to lose sight of either. I have talked to every supervisor and every manager in this plant for the last few weeks. And I've told them all, we have got to stay on track with this team."*¹⁷

But in case anyone mistook Nissan's intent, Senior VP John Martin made their position clear.

"Now the UAW isn't down here from Detroit to help you. The UAW is down here to help themselves.... The UAW needs you, but you don't need them."

Jeffrey Webster, Nissan America's Director of Diversity, concluded the meeting with an unequivocal appeal.

"If you are committed today to working together as one team, I ask you, I ask you, and I also ask you, please, vote no!"

Once again, as throughout the entire election period, not a single contrary voice was allowed to speak. When the votes were counted late in the evening of Friday, August 4, Nissan's campaign of fear and dread won out: 1,307 voted yes for collective bargaining and 2,244 voted no.

Injustice Must Be Confronted

In recent years, Americans have become acutely aware of our growing income inequality. In the 2016 election cycle, there was much discussion of the scarcity of good paying jobs. Yet at the same time – and with few exceptions – employers and politicians have been waging a war on collective bargaining for many years. In the United States, collective

bargaining has been the primary means for workers to raise their wages and encourage safe and sustainable working conditions. But the mechanism of collective bargaining is only available to workers when they form an organization – a union – to engage in collective bargaining with their employer. As was demonstrated in the small community of Canton, Mississippi in the summer of 2017, the process for workers to choose whether or not to engage in collective bargaining is severely broken.

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Nissan did not just dominate the election inside the plant, it totally monopolized it. Not only was there no equal time for those voting yes, there was zero time. While it is alleged that Nissan committed numerous acts that violate U.S. labor law,¹⁸ some of its more egregious behavior was not illegal. But this "legal" behavior cannot be considered ethical behavior, and certainly does not meet the standard of "free and

fair." The union election at the Canton, Mississippi Nissan plant provided no access for the UAW, no equal time, no equal ability to post information, and allowed the company to make veiled threats, intimidate undecided voters, and disparage and demonize the union.

It should not take an act of extraordinary courage for workers to choose collective bargaining. It should be an act of simple democracy; merely a choice in the context of a free and fair election.

You can download this report at
<https://uaw.org/organize/election-neither-free-fair/>

¹⁷ Transcript of August 1, 2017 captive audience meeting

¹⁸ See NLRB Cases 15-CA-145043, 15-CA-150431, 15-CA-175295, 15-CA-190791, 15-CA-194155, 15-CA-197194 and 15-CA-195326